



Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. **Facsimile:** 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2013-014-C.

Petitioner: Gibson County Coal, LLC, 3455 S 700 W, Owensville, Indiana 47665.

Mine: South Mine, MSHA I.D. No. 12-02388, located in Gibson County, Indiana.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit oil and gas wells to be plugged using proven techniques described in this petition and then to mine in close proximity or through such plugged wells. The petitioner states that:

The following techniques and procedures will be used to plug the wellbore:

(1) A diligent effort will be made to clean the borehole to a depth which would permit the placement of at least 200 feet of expanding cement below the base of the Indiana #5 coal seam.

(2) When cleaning the borehole, a diligent effort will be made to remove all the casing in the borehole. If it is not possible to remove all casing, the casing which remains will be perforated, or ripped, at intervals spaced close enough to permit expanding cement slurry to infiltrate the annulus between the casing and the borehole wall for a distance of at least 200 feet below the base of the Indiana #5 coal seam.

(3) If the cleaned out borehole produces gas, a mechanical bridge plug will be placed in the borehole in a competent stratum at least 200 feet below the base of the Indiana #5 coal seam, but above the top of the uppermost hydrocarbon producing stratum. If it is not possible to set a mechanical bridge plug, a substantial brush plug may be used.

(4) Unless indicated by the individual well log for that particular hole or by borehole logs taken nearby, a log(s) will be made to determine the top and bottom of the Indiana #5 coal seam and potential hydrocarbon producing strata and the location of the bridge plug.

(5) If the uppermost hydrocarbon producing stratum is within 200 feet of the base of the Indiana #5 coal seam, properly placed mechanical bridge plugs or a suitable brush plug will be used to isolate the hydrocarbon producing stratum from the expanding cement plug. Nevertheless, a minimum of 200 feet of expanding cement will be placed below the Indiana #5 coal seam.

(6) The wellbore will be completely filled and circulated with a gel that inhibits any flow of gas, supports the walls of the borehole, and densifies the expanding cement. This gel will be pumped through open-end tubing run to a point approximately 20 feet above the bottom of the cleaned out area of the borehole or bridge plug.

The following procedures will be used when plugging gas or oil wells to the surface:

(1) A cement plug will be set in the wellbore by pumping expanding cement slurry down the tubing to displace the gel and fill the borehole to the surface. As an

alternative, the cement slurry may be pumped down the tubing so that the borehole is filled with Portland cement or a Portland cement-fly ash mixture from a point approximately 100 feet above the top of the lowest mineable coal bed to the surface with an expanding cement plug extending from at least 200 feet below the lowest mineable coal bed to the bottom of the Portland cement. There will be at least 200 feet of expanding cement below the base of the Indiana #5 coal seam.

(2) A surface casing or a small quantity of steel turnings, or other small magnetic particles, will be embedded in the top of the cement near the surface to serve as a permanent magnetic monument of the borehole, if a steel surface casing is not present. As an alternative, a steel rod may be driven into the ground next to the borehole.

The following procedures will be used when plugging oil and gas wells for subsequent use as degasification boreholes:

(1) A cement plug will be set in the wellbore by pumping expanding cement slurry down the tubing to displace the gel and provide at least 200 feet of expanding cement below the Indiana #5 coal seam. The top of the expanding cement will extend upward to a point above the top of the coal bed being mined. This distance will be based on the average height of the roof strata breakage for the mine.

(2) To facilitate methane drainage, degasification casing of suitable diameter, slotted or perforated throughout its lower 150 to 200 feet, will be set in the borehole to a point 10 to 30 feet above the top of the expanding cement.

(3) The annulus between the degasification casing and the borehole wall will be cemented from a point immediately above the slots or perforations to the surface.

(4) The degasification casing will be cleaned out for its total length.

(5) The top of the degasification casing will be fitted with a wellhead equipped as required by the District Manager. Such equipment may include check valves, shut-in valves, sampling port, flame arrestor equipment, and security fencing.

The following procedures will apply to mining through a plugged oil and gas well:

(1) The operator will notify the District Manager (DM) or designee prior to mining within 300 feet of the well, and when a specific plan is developed for mining through each well.

(2) Mining in close proximity to or through a plugged well will be done on a shift approved by the DM or designee.

(3) The DM or designee and the appropriate State agency will be notified by the operator in sufficient time prior to the mining through operation in order to have an opportunity to have representatives present.

(4) When using continuous mining methods, drilage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drilage sights will not be more than 80 feet from the well.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available near the working place.

(6) Sufficient supplies of roof support and ventilation materials will be available near the working places.

(7) The quantity of air required by the approved ventilation system and methane and dust control plan, but not less than 9,000 cubic feet of air per minute, will be used to ventilate the working face during the mining through operation.

(8) Equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitor on the continuous mining machine will be calibrated on the shift prior to mining through the well.

(10) When mining is in progress, tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through.

(11) The working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof, rib, and floor to within 20 feet of the face when mining through the well.

(12) When the wellbore is intersected all equipment will be de-energized and the place thoroughly examined and determined safe before mining is resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the wellbore.

(13) After a well has been intersected and the working place determined safe, mining will continue in by the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(14) No person will be permitted in the area of the mining through operation except those actually engaged in the operation, company personnel, personnel from MSHA, and personnel from the appropriate State agency.

(15) The mining through operation will be under the direct supervision of a certified individual. Instruction concerning the mining through operation will be issued only by the certified individual in charge.

The petitioner further states that room and pillar mining methods employing continuous miners are currently used.

The petitioner asserts that the proposed alternate method will at all times provide no less than or a greater measure of safety than is intended by the existing standard due to the elimination of possible gas flow, the simplification of the mine ventilation system, and a more efficient flow of air throughout the mine.

Docket Number: M-2013-005-M.

Petitioner: Newmont USA Limited, 1655 Mountain City Highway, Elko, Nevada 89801.

Mine: Twin Creeks Mine, MSHA I.D. No. 26-01942, located in Humboldt County, Nevada.

Regulation Affected: 30 CFR 56.6309 (Fuel oil requirements for ANFO).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of recycled oil with diesel fuel to manufacture a mixture of ammonium nitrate and fuel oil ANFO for blasting. The petitioner states that:

(1) Only filtered petroleum-based recycled oils from equipment at the Twin Creeks Mine will be used for the purpose of blending with diesel fuel to create a blasting

agent from a mixture of ANFO. The oil will not contain any hazardous waste material listed in Subpart D, Title 40 CFR 261.

(2) The used oil will be recycled by filtering and then stored in tanks used exclusively for this purpose. The contents of each storage tank will have no additional oil or other products, with the exception of diesel fuel (#2) or more tested used oil, added until the contents of each tank have been depleted.

(3) The used oil will be filtered using two filters, 60 mesh and 100 mesh arranged in series to ensure the oil has no larger particle size than 147 microns. These filters will be cleaned/replaced on a regularly scheduled basis, or whenever the filter becomes clogged to the extent that a pressure differential of 70 PSI exists across the filter tank.

(4) Analyses will be conducted on each batch load of oil after the entire contents of the tank is thoroughly mixed and filtered to ensure that the oil meets the following specifications derived from Table 1 in 40 CFR 279.11:

- | | |
|--------------------|---------------------------|
| (1) Arsenic | 5 ppm maximum |
| (2) Cadmium | 2 ppm maximum |
| (3) Chromium | 10 ppm maximum |
| (4) Lead | 100 ppm maximum |
| (5) Total Halogens | 1,000 ppm maximum |
| (6) Flash Point | 100-135 Degrees F Minimum |

Flash point will be derived using an open cup ASTM test. The frequency of testing and analyses for these specifications may be reduced upon the adequate submittal

of records to the District Manager (DM) showing a demonstrated record of meeting the specifications, and a written authorization from the DM allowing the reduction in testing frequency.

(5) Oil not meeting specifications will be resampled and retested immediately. Any load failing two consecutive tests will be rejected and placed in a designated storage tank and will be removed for proper disposal by a licensed recycling company.

(6) Recycled oil will be stored in a tank used exclusively for this purpose. The oil will be further checked for water and ethylene glycol in shop storage tanks prior to blending with diesel fuel. If either is observed, the water and or ethylene glycol will be drained prior to blending and disposed of in an approved manner.

(7) High viscosity oils of 90W or above will be restricted to less than 10 percent of the total quantity of recycled oil in the storage tank.

(8) Clean diesel fuel will be added to recycled oil to create blended fuel oil. The blend of recycled oil and diesel fuel will not exceed 50 percent recycled oil, a 1:1 ratio. The recycled oil will be introduced with diesel fuel using a blending facility manufactured for the purpose of this process. The blending facility will pull diesel fuel from one tank and recycled oil from another tank blending the two ingredients prior to dispensing into the blasting agent delivery truck. Mixing will ensure recirculation of at least three times the total volume of diesel fuel and recycled oil. The blending facility will be provided with a locking system to prevent unauthorized personnel from tampering with the settings of the facility to ensure the proper blend of recycled oil and diesel fuel is achieved.

(9) Absorption testing will be conducted initially on the blended oil to verify the proper mixing ratio. Records of viscosity tests, absorption tests and temperature will be maintained. Analysis of the data will determine if the ratio of diesel fuel to recycled oil needs to be adjusted seasonally to ensure proper viscosity and absorption. Written procedures will be developed to ensure the optimum blending ratio is being used. Should low temperatures cause the blended oil to become too viscous for proper absorption (at least 6 percent fuel by weight) in the ammonium nitrate prills, the ratio of recycled oil diesel fuel blend will be adjusted to increase the volume of the diesel fuel.

(10) Each new batch of blended fuel oil will be tested for sensitivity by combining the blended fuel oil and the appropriate volume of ammonium nitrate prills. This ANFO mixture will be subjected to the detonation of a No. 8 blasting cap. For each new batch of blended fuel oil, this test will be performed on at least 3 samples, each having minimum dimension of 3-3/8 inches in diameter and 6-3/8 inches long. Each detonator will be placed near the center of each sample. Each sample container must be non-rigid, such as paper products, to minimize confining effects upon initiation. If detonation occurs on any sample, the batch of blended fuel oil will not be used to produce ANFO. Records of whether or not each sample detonated will be maintained on the mine property and made available for MSHA review on request for at least a year.

(11) The recycled oil will be transferred as needed from the shop “used oil” storage tank to the recycled oil storage/distribution tank at the prill silo storage area in batches. Each batch will be sampled and tested during this portion of the handling

process prior to dispensing for use through the blending facility. Bulk ANFO delivery-mixing vehicles will draw blended fuel oil from this blending facility tank.

(12) The use of blended fuel oil will be suspended when low temperatures cause the mixture to become too viscous for proper absorption by ammonium nitrate prill. Additional fuel may be added to the blended fuel oil to reduce the viscosity and allow its use. Any fuel added in this circumstance will be noted in the blending log. The blending facility will have the capability to adjust the “blend” to 30, 40, or 50 percent recycled oil depending on availability of recycled oil and or viscosity concerns.

(13) The recycled oil will be transported and used in a closed system which prevents skin contact, inhalation of vapors and ingestion. Personal Protective Equipment as required by 30 CFR 56.15006 will be provided.

(14) Records will be maintained with the following oil transfer, recycling and testing information. Each truck load of recycled oil from the shop storage tank will be assigned a unique control number for tracking. A log will be maintained with the name of the operator, date, oil source (shop storage tank), gallons transferred, verification of filtering, oil sample number, and pass/fail test results for Items listed in paragraph number 4.

(15) Records will also include the dates of all filter cleaning/replacing activities.

(16) Blasting records for each shot employing the blended oil will be maintained and identified as a shot using blended fuel oil. The records will include the date of loading and blasting, type of initiation system, primer type and size, size and depth of all boreholes, number and location within the shot of all boreholes, quantities of blended oil

and what percent of blend, quantities of ANFO used in the shot, and quantities as well as type of emulsions (heavy ANFO) employed in the shot. The use of any plastic hole-liners will also be recorded. The records will be maintained on the mine property and made available to MSHA on request for at least one year.

(17) Emulsions (heavy ANFO) will not be used with the blended oil unless the manufacturer of the emulsion certifies compatibility. Certification will be maintained on the mine property and made available to MSHA on request.

(18) Misfires will be reported to mine management by the end of the shift as required in 30 CFR 56.6311.

(19) The blended fuel oil mixture will be used only on the mine property. Mixing of the blended oil and ammonium nitrate prill is intended for immediate use and will not be stored as a mixed product. The blended fuel oil ANFO mixture will be used in minimum hole-diameters of six inches.

(20) A lockout system will be provided on all oil transfer, recycled oil, and blending facilities to prevent unauthorized use or tampering. Only properly trained and authorized personnel will have keys to operate the lockout system.

(21) All storage tanks will be equipped with a secondary containment system to prevent spillage and accidental discharge of oil or diesel fuel oil.

(22) The blended oil will not be used in blasting operations in confined spaces or underground.

The petitioner asserts that the proposed alternative method will guarantee the miners no less than the same method of protection as that afforded by the existing standard.

Docket Number: M-2013-006-M.

Petitioner: The Doe Run Company, 6854 Hwy KK, Bunker, Missouri 63629.

Mine: Fletcher Mine, MSHA I.D. No. 23-00409, located in Reynolds County, Missouri.

Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of an alternative method of compliance to maintain compressed air cylinders in lieu of compressed air lines in refuge chambers. The petitioner states that:

(1) The refuge chamber would be provided with compressed air cylinders and a suitable regulator as well as always remain in the fresh air circuit of the mine's ventilation.

(2) Bottled water will be maintained in the refuge chamber in lieu of waterlines as required by the standard.

(3) The refuge chambers are provided as a safety precaution in the event miners are unable to escape from the mine in an emergency.

(4) Three compressed air cylinders and bottled water for the refuge chamber will be available if needed during the mine emergency.

(5) The chamber will always remain in the fresh air, maintaining an acceptable air quality for an indefinite time period. Air and water lines may be damaged in the event of a mine emergency.

The petitioner asserts that having compressed air cylinders, the refuge chamber in the fresh air circuit of mine's ventilation, and bottled water in the chamber, will always guarantee the miners affected no less than the same measure of protection afforded by the standard.

Dated: March 22, 2013

George F. Triebisch
Director
Office of Standards, Regulations and Variances

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